

San Francisco, Cal., September 24th, 1907.
Hon. James A. Garfield,
Secretary of the Interior.

IN THE MATTER OF
WATER STORAGE AND UTILIZATION
ON THE
TUOLUMNE RIVER, CALIFORNIA

TO THE
HONORABLE JAMES A. GARFIELD
SECRETARY OF THE INTERIOR

On July 29th, 1901, certain appropriations were passed by request of Mr. James D. Phelan, on the main Tuolumne River at the mouth of Hotchkiss Valley, and on the Middle Tuolumne branch of Tuolumne River at the outlet of Lake Eleanor Valley, claiming waters of those streams under laws of the State of California.

FROM
WM. HAM. HALL
CHIEF ENGINEER OF THE SIERRA DITCH
AND WATER COMPANY

Thereafter, by direction of the Board of Supervisors of the County of San Francisco, for reservation rights of way covering the Hotchkiss Valley and Lake Eleanor Valley sites, and on October 16th, 1901, applications were filed by the City Engineer of San Francisco, at the request of Mr.

WATER STORAGE AND UTILIZATION
ON THE
TUOLUMNE RIVER, CALIFORNIA

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SAN FRANCISCO, CAL., September 20th, 1907.

HON. JAMES A. GARFIELD,

Secretary of the Interior,

Washington, D. C.

Sir:

The undersigned, Wm. Ham. Hall, of San Francisco, California, for himself and as the chief engineer of the Sierra Ditch and Water Company, a corporation duly organized under the laws of the State of California, hereby respectfully but earnestly calls your attention to certain facts relative to water storage and water right matters on the Tuolumne River, Tuolumne County, California, as bearing upon the prayers or petitions of the Turlock and Modesto Irrigation Districts and of the municipal authorities of the City of San Francisco, relative thereto and recently submitted to yourself.

On July 29th, 1901, notices of water appropriation were posted, by request of Mr. James D. Phelan, on the main Tuolumne River at the outlet of Hetch-Hetchy Valley, and on the Eleanor Creek branch of Tuolumne River at the outlet of Lake Eleanor Valley, claiming waters of those streams under laws of the State of California.

Thereafter surveys were made by direction of the Board of Supervisors of the City and County of San Francisco, for reservoir rights of way covering the Hetch-Hetchy Valley and Lake Eleanor Valley sites, and on October 16th, 1901, applications were filed by the City Engineer of San Francisco, at the request of Mr.

Phelan, with the Register of the Stockton Land Office, at Stockton, California, for issue of reservoir right of way permits covering the said sites, under the Act of Congress approved February 15th, 1901.

It is understood that these steps were taken by Mr. Phelan in the interest of a water supply for the City of San Francisco.

The water-right claim made as above at the Lake Eleanor Valley site by Mr. Phelan has been wholly and positively forfeited, under the laws of California, by total failure to comply, after the surveys of the summer and fall of 1901, with the terms of said laws in the matter of holding such claims and establishing rights by field work in the line of actual appropriation of water.

In his report on the Tuolumne River project for the supply of San Francisco, submitted at the close of the fiscal year ending with June, 1902, the City Engineer explicitly and fully demonstrated that the Hetch-Hetchy Valley water storage would provide an all-sufficient supply for San Francisco for at least fifty years in the future, independently of the local or Spring Valley Water Works supply. He expressly declared that the Lake Eleanor site was not necessary in the desired scheme of municipal water supply, and he positively and purposely left it out from the plans and estimates therefor.

The Lake Eleanor reservoir site was treated and referred to in this, the official, report of the City Engineer as an alternative to the Hetch-Hetchy Valley site, which latter was preferred, recommended and planned

and estimated upon, to the exclusion of the Lake Eleanor site. (See note hereto appended.)

This report was based on the surveys made by the City Engineer after the water right filings of July, 1901, and presumably as the result of his studies and estimates made subsequent to the reservoir applications of October of the same year.

By forfeiture of the water right necessary to make it operative, by the official rejection of the site itself, by the official demonstration that the Hetch-Hetchy Valley site would be all-sufficient for the city's supply, and by the acceptance, filing and adoption of the City Engineer's report covering these latter points, the city's claim to recognition of the application for the Lake Eleanor reservoir right of way, in its behalf, under the act of Congress and departmental regulations thereunder, was positively and wholly abandoned.

On the 20th of July, 1902, the undersigned posted a water right claim at the Lake Eleanor site. The necessary reservoir right of way survey was thereafter promptly made, and application to have his map approved, representing said right of way, was filed in the Stockton Land Office on December 22d of the same year.

The filing and application of the undersigned, made as above, was in every way regular and complete, and all acts necessary to maintain it in good standing under the laws of California, the acts of Congress and departmental regulations, have been fully and diligently performed to the present time.

Under date of January 20th, 1903, the Honorable Secretary of the Interior in a letter to the Commissioner of the General Land Office formally denied the petitions of Mr. Phelan for the reservoir rights of way applied for as above. A rehearing was had on the petition of the City Attorney of San Francisco, before the Honorable Secretary in person, on the first, second and third of April, 1903, and the applications were thereafter finally denied and disposed of in a ruling by the Honorable Secretary dated 1903.

Since that date and to the present time, there has been and is no application for right of way for a reservoir at the Lake Eleanor site before the Department of the Interior, made on behalf of Mr. Phelan or in the interest of the City of San Francisco, which has any regular form or legitimate standing under the acts of Congress and the departmental regulations.

The application of the undersigned for approval of a map of right of way covering this site, now before the department, is regular and should be in good standing for favorable action by the Honorable Secretary.

The undersigned and the said Sierra Ditch and Water Company own by complete and perfect titles much the greater part of the flat and useful lands within the Lake Eleanor reservoir site, which lands so owned comprise all that are in private ownership within the Lake Eleanor reservoir space.

The undersigned and the said Sierra Ditch and Water Company own and control certain water and reservoir

rights and claims relating to the Lake Eleanor site which antedate the establishment of the forest reserve in which said lake is situated, and now maintain a structure in the outlet of said lake, upon their own patented lands, adapted to the control of the water flow therefrom.

The undersigned and the said Sierra Ditch and Water Company have before your Department eight other reservoir right of way filings, namely: for the Kibbe Lake, Lower Twin Lake, Huckleberry Lake, Emigrant Lake, Big Lake, Buck Meadow, Louse Cañon, and Cherry Valley sites.

The first of these, Kibbe Lake, is, like the Lake Eleanor site, within the forest reserve known as the Yosemite National Park. The other seven are not in that reserve.

The entire nine sites thus filed upon by the undersigned and the Sierra Ditch and Water Company are located on the Cherry-Eleanor branch of the Tuolumne River, which branch, above the lowermost of the sites, has a drainage area of 198 square miles.

There are no water right or reservoir claims, other than those of the undersigned and the Sierra Ditch and Water Company, on this branch of the Tuolumne.

The Hetch-Hetchy Valley reservoir site, recommended by the City Engineer as adapted to and sufficient for the San Francisco water supply, is on the Main Fork of the Tuolumne, ten or more miles above the confluence of the Cherry-Eleanor branch therewith. Neither the undersigned nor the Sierra Ditch and Water Com-

pany have ever made claim to waters or applied for reservoir right of way at Hetch-Hetchy Valley or at any other point or site on this Main Fork.

Therefore, there is no conflict between the claims or aspirations of the City of San Francisco for a water supply from the Tuolumne River, and the rights of the undersigned and the Sierra Ditch and Water Company, established on the Cherry-Eleanor branch of that river as above, except as such conflict may arise by reassertion of the city's claim to waters of Eleanor Creek or to a reservoir right of way for the Lake Eleanor site, which site was declared to be unnecessary, and was officially rejected and abandoned before the undersigned applied for it.

The undersigned and the said Sierra Ditch and Water Company seek to devote the waters which would be stored in its reservoir sites under rights of way established by approval or filing of the maps now in your Department, to a most useful and lawful public purpose, namely, that of irrigation, as well as to other public purposes.

The Turlock and Modesto Irrigation Districts now do or within a few years will need waters which they cannot get except as the result of storage within the Tuolumne River shed.

These districts are carrying heavy bonded indebtednesses and it is highly probable that they will not be able to construct reservoirs at their own cost before the time when they would want to use stored waters.

They fear that the supplying of San Francisco from the Tuolumne will cut into their supply or prevent them from securing service of stored waters in the future, and they appeal to you that you take some action to guard their present interests and conserve waters for their future needs.

In this connection the undersigned respectfully represents to you that:

(1) There is no necessary conflict as between the City of San Francisco and the undersigned and the Sierra Ditch and Water Company, in this matter of water storage on the Tuolumne. The undersigned and the Sierra Ditch and Water Company have laid claim only to that which the city abandoned as unnecessary for its supply, which, as matter of fact, is wholly unnecessary for its purposes, which, added to the plan recommended by the City Engineer, would constitute an unnecessary burden upon the taxpayers of that city, and which could not be availed of by the city, in addition to Hetch-Hetchy, in compliance with the regulations of your Department.

(2) There is no such necessity for conflict over the Tuolumne River water supply between those who seek to utilize it, as seems to be feared. In the opinion of the undersigned, based on an intimate knowledge of the Tuolumne River watershed, a broad investigation of this subject would show that the water storage opportunities within this shed are far greater than now definitely understood. Such an investigation has never been made by the irrigation districts or the City of San Francisco.

(3) There should be no controversy as between the Turlock and Modesto irrigation districts and the undersigned and the Sierra Ditch and Water Company, relative to water storage on the Tuolumne. The undersigned and the Sierra Ditch and Water Company seek to conserve, distribute and supply to irrigators the flood waters of the Cherry-Eleanor branch of that river, have proceeded according to law in acquiring right to do so, and have expended a large amount of money and secured a number of necessary and valuable properties to that end.

The Sierra Ditch and Water Company has shown the utmost good faith towards the districts by offering to supply them with stored waters in preference to other customers, and on terms such as the districts themselves could not better.

The undersigned and the Sierra Ditch and Water Company, feeling entirely secure in the completeness and regularity of their claims and rights on the Cherry-Eleanor branch of the Tuolumne, do not appear as protestants against your considering any application or petition made in the interest of the City of San Francisco for the use of the Hetch-Hetchy Valley or any other of the good sites on the Main Fork of the Tuolumne, which has far the greater water supply of the two.

We simply point out to you—that we are not in conflict with the plan recommended by the City Engineer and adopted by the city; that we are not seeking to use

waters to the detriment of the irrigation districts; that our proposed disposition of the waters of the Cherry-Eleanor branch of the river, in supplying the districts, should go far towards removal of the districts' opposition to the city's desire to store and take waters from another fork of the stream, and that a proper investigation of this subject might enable you to reconcile to the districts the idea of allowing the city so to do.

Very respectfully,

Your obedient servant,

WM. HAM. HALL.

NOTE.

The following excerpts are from the mentioned report of the City Engineer as printed in the San Francisco Municipal Reports, Vol. 1902-03, at the pages cited.

Lake Eleanor referred to as "one of the available reservoir sites" (p. 419).

Lake Eleanor referred to as an alternative to Hetch-Hetchy: "Although stored waters, whether in Lake Eleanor or as will be hereafter shown, in Hetch-Hetchy Valley, would be sufficient for the needs of San Francisco" (p. 421).

The Lake Eleanor site, rejected: "The construction of a reservoir at the Lake Eleanor reservoir site, forms no part of the water supply project, as now made the basis of a cost estimate" (p. 421).

The Hetch-Hetchy site accepted and the Lake Eleanor site rejected: "It has seemed important to call attention to these features in order to show that the accepted project of utilizing at this time Hetch-Hetchy Valley alone for storage purposes is not the only feasible means of securing an ample supply of stored water in those portions of the high Sierras tributary to Tuolumne River."

The Hetch-Hetchy site declared to be the basis of the project: "The proposed water works, for the utilization of that Sierra Nevada source of supply which at present seems the most available, will include storage works on Tuolumne River at Hetch-Hetchy Valley" (p. 422).

Water supply declared to be all sufficient for Hetch-Hetchy reservoir: "The flow of Tuolumne River into Hetch-Hetchy Valley is always in excess of the storage capacity of the reservoir, so that a full reservoir is to be assumed at the end of July of each year" (p. 424).

After allowing for loss by evaporation, etc., the water supplying capacity of the Hetch-Hetchy reservoir is shown to be "89,000,000 gallons per day for a full year" or "135,000,000 gallons per day for eight months of the year" (p. 425).

It is shown at several places in the report that a stored water supply would be needed for not more than eight months in the year, because there would be a great surplus going to waste, in high water periods, from which the city might draw its supply during the other four months.

The capacity of works estimated and reported upon is stated: "The system will therefore come into use at about one-half of water per day. The city needs at present only 30,000,000. The system will therefore come into use at about one-half of its capacity."

Thus, the Hetch-Hetchy reservoir is shown to have supplying capacity more than twice as great as the system of works planned for delivery of the water to the city, which system is declared to have capacity twice as great as the then present needs of the city.

All of the foregoing is quite aside from the local or Spring Valley Water Works supply, to which the City Engineer alludes on page 449, and which has a supplying capacity of about 30,000,000 gallons per day.

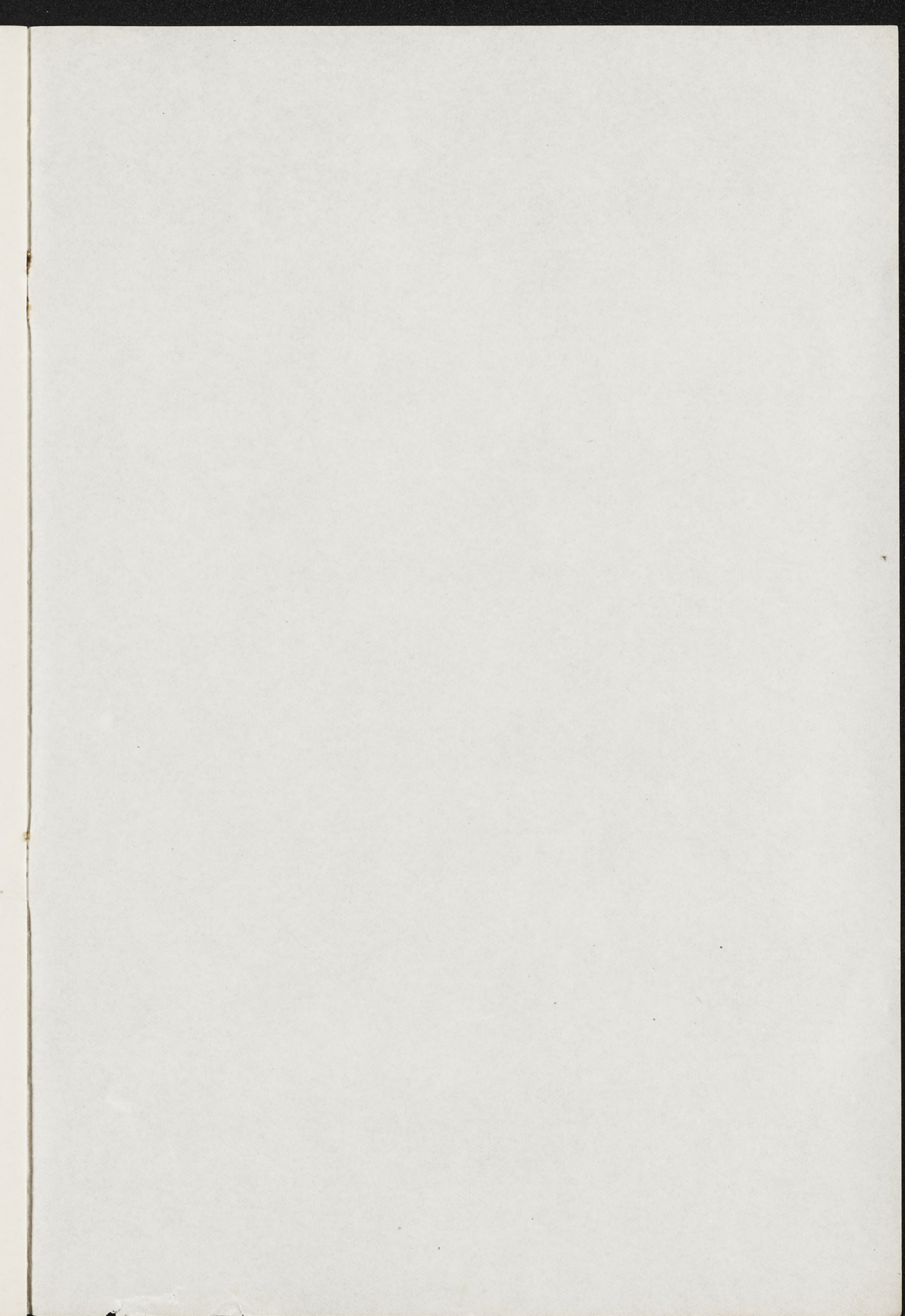
It is shown in this report of the City Engineer that the water consumption in San Francisco would probably about double from 1908 to 1950 (p. 446). That being the outlook, the delivery works planned would be of sufficient capacity for 40 years to come, and the Hetch-Hetchy storage would yet, 40

years hence, be still double the requisite capacity, even without the local or Spring Valley supply.

Thus it is plain that San Francisco cannot use the Lake Eleanor reservoir site to advantage in addition to the Hetch-Hetchy site, and could not do so for very many years to come.

It has been declared, contrary to good public policy, to the spirit of the Acts of Congress and the letter of the departmental regulations to issue reservoir rights of way which are not to be utilized at once. The departmental regulations require full construction of works for such utilization within five years.

All of this is intended to apply to the Lake Eleanor reservoir site and not to the Hetch-Hetchy site.



PORTLAND, ME., 1884